

**BEFORE THE  
MISSOURI ETHICS COMMISSION**

**Filed**  
**JUL 19 2012**  
Missouri Ethics  
Commission

MISSOURI ETHICS COMMISSION,	)	
	)	
Petitioner,	)	
	)	
v.	)	
	)	
FIRST SENATORIAL POLITICAL	)	Case No. 11A148
PARTY,	)	
Continuing Committee	)	
	)	
and	)	
	)	
JAMES A. MAJEWSKI,	)	
Treasurer/Deputy Treasurer	)	
	)	
Respondents.	)	

**FINDINGS OF FACT, CONCLUSION OF LAW AND  
ORDER**

This is the final decision and order of the Missouri Ethics Commission following a hearing on a complaint filed by Petitioner by and through counsel, pursuant to Section 105.961, RSMo, and Chapter 536, RSMo. The hearing was conducted before the following members of the Missouri Ethics Commission: Dennis Rose, Louis J. Leonatti, Vernon Dawdy, John Munich, William Stoltz, , and Charles Weedman.

A closed hearing took place on Thursday, July 19, 2012, at the offices of the Missouri Ethics Commission at 3411A Knipp Drive, Jefferson City, Missouri 65109. The Commission was represented by Curtis R. Stokes, attorney. Respondents failed to appear after due notice.

The Commission admitted into evidence Petitioner's Exhibits 1 through 18. Having considered all the competent and substantial evidence upon the whole record, the Commission finds as follows:

## **FINDINGS OF FACT**

1. The Missouri Ethics Commission (“the Commission”) is an agency of the State of Missouri established pursuant to Section 105.955, RSMo, in part for the purpose of enforcing the provisions of Chapter 130, RSMo.

2. Respondent First Senatorial Political Party is a continuing committee registered with the Missouri Ethics Commission.

3. At all relevant times, Respondent Majewski was either the deputy treasurer or the treasurer of the Respondent committee. He was the deputy treasurer through February 2010 and the treasurer starting in February 2010.

4. Respondents were required to file campaign finance disclosure reports with the appropriate officers, which in the case of a continuing committee includes the Missouri Ethics Commission. § 130.011(1); § 130.026.4, RSMo.

5. Pursuant to Section 105.959, RSMo, the Commission’s staff has investigated the reports and statements filed with the Commission and reported the investigation’s findings to the Commission.

6. Based on the report of the Commission’s staff, the Commission determined that there are reasonable grounds to believe that violations of law occurred, and it therefore authorized a hearing in this matter pursuant to Section 105.961.3, RSMo.

### **COUNT I**

#### *Failure to timely file campaign finance disclosure reports*

7. Respondents failed to file the April 2010 quarterly report that was due on April 15, 2010.

8. Respondents failed to file the July 2010 quarterly report that was due on July 15, 2010.
9. Respondents failed to file the October 2010 quarterly report that was due on October 15, 2010.
10. Respondents failed to file the April 2011 quarterly report that was due on April 15, 2011.
11. Respondents failed to file the July 2011 quarterly report that was due on July 15, 2011.
12. The Missouri Ethics Commission issued a reminder notifying all committees of the October 2011 quarterly report due on October 17, 2011.
13. Respondents failed to file the October 2011 quarterly report that was due on October 17, 2011.
14. Respondents failed to file the January 2012 quarterly report that was due on January 15, 2012.

## **COUNT II**

### *Failure to timely and accurately report contributions received*

15. Respondents failed to disclose the following \$42,000 in contributions received:

<b>Check Date</b>	<b>Item #</b>	<b>Contributor</b>	<b>Amount</b>
10/23/2008	277	St. Louis Labor Club	\$5,000.00
10/23/2008	2714	Pipefitters Vol Pol ED Legislative Charity & Defense Fund	\$5,000.00
10/23/2008	1581	Rockwood Labor Club	\$5,000.00
10/23/2008	3072	North County Labor Legislative Club	\$6,000.00
10/23/2008	6674	Missouri AFL-CIO COPE	\$20,000.00
10/27/2008	1041	Tri County Labor Legislative Club	\$1,000.00
		<b>Total</b>	<b>\$42,000.00</b>

**COUNT III**

*Failure to timely and accurately report expenditures and contributions made*

16. Respondents failed to report the following \$144.27 in expenditures on campaign finance reports that they filed:

<b>Date</b>	<b>Item #</b>	<b>Payee</b>	<b>Amount</b>
04/03/2008	80901	St. Mary Magdalen	\$100.00
05/05/2008	9000	Dierberg's	\$44.27
		<b>Total</b>	<b>\$144.27</b>

17. Because of their failure to file reports, Respondents failed to report the following \$42,735.56 in expenditures and contributions:

<b>Date</b>	<b>Item #</b>	<b>Payee</b>	<b>Amount</b>
10/03/2008	70017	Committee to Elect Sue Schoemehl	\$50.00
10/25/2008	70018	Telephone Contact Inc	\$41,414.00
11/28/2008	n/a	Citizens National Bank – Service Charge	\$6.00
12/31/2008	n/a	Citizens National Bank – Service Charge	\$6.00
11/11/2009	90002	Genise Montecillo for State Rep	\$200.00
11/11/2009	90001	Committee to Re-Elect Sue Schoemehl	\$350.00
11/11/2009	90004	14 <sup>th</sup> Democratic Ward	\$100.00
12/29/2009	90005	Accurate Tax Service	\$109.56
12/29/2009	90006	James A. Majewski	\$500.00
		<b>Total</b>	<b>\$42,735.56</b>

**COUNT IV**

*Failure to report direct expenditures*

18. Respondents did not report the following \$41,936 in expenditures that were, upon information and belief, made to support or oppose a candidate or ballot measure:

<b>Date</b>	<b>Item #</b>	<b>Payee</b>	<b>Amount</b>
06/12/2008	70014	Bevo Area Improvement Corp	\$522.00
10/25/2008	70018	Telephone Contact Inc.	\$41,414.00
		<b>Total</b>	<b>\$41,936.00</b>

**COUNT V**

*Failure to timely terminate committee and/or maintain an official fund depository account*

19. On December 10, 2009, Respondents' official fund depository account had a total of \$609.56.

20. On December 29, 2009, Respondents issued checks to Respondent Majewski for \$500 and to Respondent Majewski's company, Accurate Tax Service, for \$109.56.

21. On December 31, 2009, with a balance of zero dollars, Respondents closed the official depository account.

22. Once closing the official fund depository account, Respondents did not report that change on an amended statement of committee organization within twenty days, did not open another official depository account in the committee's own name, and did not terminate the committee.

## CONCLUSIONS OF LAW

### COUNT I

#### *Failure to timely file campaign finance disclosure reports*

23. Respondents were required to file campaign finance disclosure reports at the following times and for the following periods:

(1) Not later than the eighth day before an election for the period closing on the twelfth day before the election if the committee has made any contribution or expenditure either in support or opposition to any candidate or ballot measure;

(2) Not later than the thirtieth day after an election for a period closing on the twenty-fifth day after the election, if the committee has made any contribution or expenditure either in support of or opposition to any candidate or ballot measure; except that, a successful candidate who takes office prior to the twenty-fifth day after the election shall have complied with the report requirement of this subdivision if a disclosure report is filed by such candidate and any candidate committee under the candidate's control before such candidate takes office, and such report shall be for the period closing on the day before taking office; and

(3) Not later than the fifteenth day following the close of each calendar quarter.

Notwithstanding the provisions of this subsection, if any committee accepts contributions or makes expenditures in support

of or in opposition to a ballot measure or a candidate, and the report required by this subsection for the most recent calendar quarter is filed prior to the fortieth day before the election on the measure or candidate, the committee shall file an additional disclosure report not later than the fortieth day before the election for the period closing on the forty-fifth day before the election.

§ 130.046.1, RSMo.

24. There is probable cause to believe that Respondents First Senatorial Political Party and Majewski violated Section 130.046.1, RSMo, by failing to file seven campaign finance disclosure reports, and that Respondents First Senatorial Political Party did so knowingly.

## COUNT II

### *Failure to timely and accurately report contributions received*

25. Respondents were required to file campaign finance disclosure reports that set forth receipts for the period, including the:

(a) Total amount of all monetary contributions received which can be identified in the committee's records by name and address of each contributor. In addition, the candidate committee shall make a reasonable effort to obtain and report the employer, or occupation if self-employed or notation of retirement, of each person from whom the committee received one or more contributions which in the aggregate total in excess of one hundred dollars and shall make a reasonable effort to obtain and report a description of any contractual relationship over five hundred dollars between the

contributor and the state if the candidate is seeking election to a state office or between the contributor and any political subdivision of the state if the candidate is seeking election to another political subdivision of the state;

(b) Total amount of all anonymous contributions accepted;

(c) Total amount of all monetary contributions received through fund-raising events or activities from participants whose names and addresses were not obtained with such contributions, with an attached statement or copy of the statement describing each fund-raising event as required in subsection 6 of section 130.031;

...

(e) A separate listing by name and address and employer, or occupation if self-employed or notation of retirement, of each person from whom the committee received contributions, in money or any other thing of value, aggregating more than one hundred dollars, together with the date and amount of each such contribution;

§ 130.041.1(3), RSMo.

26. There is probable cause to believe that Respondents First Senatorial Political Party and Majewski violated Section 130.041.1(3), RSMo, by failing to report \$42,000 in contributions, and that Respondents First Senatorial Political Party and Majewski did so knowingly.



### COUNT III

#### *Failure to timely and accurately report expenditures and contributions made*

27. Respondents were required to file campaign finance disclosure reports that set forth expenditures for the period, including the:

- (a) The total dollar amount of expenditures made by check drawn on the committee's depository;
- (b) The total dollar amount of expenditures made in cash;
- (c) The total dollar value of all in-kind expenditures made;
- (d) The full name and mailing address of each person to whom an expenditure of money or any other thing of value in the amount of more than one hundred dollars has been made, contracted for or incurred, together with the date, amount and purpose of each expenditure. Expenditures of one hundred dollars or less may be grouped and listed by categories of expenditure showing the total dollar amount of expenditures in each category, except that the report shall contain an itemized listing of each payment made to campaign workers by name, address, date, amount and purpose of each payment and the aggregate amount paid to each such worker;
- (e) A list of each loan made, by name and mailing address of the person receiving the loan, together with the amount, terms and date;

§ 130.041.1(4), RSMo.

28. There is probable cause to believe that Respondents First Senatorial Political Party and Majewski violated Section 130.041.1(4), RSMo, by failing to report \$42,879.83 in expenditures and contributions made, and that Respondents First Senatorial Political Party and Majewski did so knowingly.

#### COUNT IV

##### *Failure to report direct expenditures*

29. Respondents were required to file campaign finance disclosure reports that set forth the “amount of expenditures for or against a candidate or ballot measure during the period covered and the cumulative amount of expenditures for or against that candidate or ballot measure, with each candidate being listed by name, mailing address and office sought. For the purpose of disclosure reports, expenditures made in support of more than one candidate or ballot measure or both shall be apportioned reasonably among the candidates or ballot measure or both. In apportioning expenditures to each candidate or ballot measure, continuing committees and continuing committees need not include expenditures for maintaining a permanent office, such as expenditures for salaries of regular staff, office facilities and equipment or other expenditures not designed to support or oppose any particular candidates or ballot measures; however, all such expenditures shall be listed pursuant to subdivision (4) of this subsection.” § 130.041.1(7), RSMo.

30. There is probable cause to believe that Respondents First Senatorial Political Party violated Section 130.041.1(7), RSMo, by failing to disclose the candidates and/or ballot measures supported or opposed by \$41,936 in expenditures, and that Respondents First Senatorial Political Party and Majewski did so knowingly.

## COUNT V

### *Failure to timely terminate committee and/or maintain an official fund depository account*

31. Every committee “shall have a single official fund depository ... and thereafter maintain at least one official depository account in its own name.” § 130.021.4(1), RSMo.

32. Any changes to this official depository account must be reported within twenty days on an amended statement of committee organization. § 130.021.7, RSMo.

33. There is probable cause to believe that Respondents First Senatorial Political Party and Majewski violated Sections 130.021.2(1) and 130.021.7, RSMo, by closing their official depository account and thereafter failing to amend their statement of committee organization, failing to open another official depository account, and/or failing to file a committee termination statement, and that Respondents First Senatorial Political Party and Majewski did so knowingly.

## ORDER

The Missouri Ethics Commission finds probable cause that Respondents James A. Majewski and First Senatorial Political Party violated, and have knowingly violated, Sections 130.046.1, 130.041.1(3), 130.041.1(4), 130.041.1(7), 130.021.2(1) and 130.021.7 RSMo.

The Commission orders Respondents to file accurately all necessary campaign finance reports and statements and terminate the committee.

The Missouri Ethics Commission orders a fee be imposed against Respondents Majewski and First Senatorial Political Party in the amount of \$134,671 pursuant to Section 105.961.4(6), RSMo. As to Count 1, the fee consists of \$7,000. As to Count 2, the fee consists of \$42,000. As to Count 3, the fee consists of \$42,735. As to Count 4, the fee consists of \$41,936. As to Count 5, the fee consists of \$1,000.

If any Respondent pays \$20,200 of that fee within thirty days of the date of this Order and files all required campaign finance disclosure reports, the remainder of the fee will be stayed for two years, subject to the provisions below.

If either Respondent Majewski or Respondent First Senatorial Political Party commits any further violations of the campaign finance disclosure laws under Chapter 130, RSMo, as amended, during this two year stay, then Respondents will be required to pay the balance of the fee as originally imposed by the Commission. The amount of the balance will be due immediately upon final adjudication finding probable cause of such a violation. Respondents Majewski and First Senatorial Political Party shall be jointly and severally liable for the balance.

SO ORDERED this 19<sup>th</sup> day of July, 2012.

A handwritten signature in black ink, appearing to read "Dennis C. Rose". The signature is written in a cursive style with a horizontal line underneath it.

Dennis Rose, Chairman  
MISSOURI ETHICS COMMISSION